

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

ERICK JOSUE ARAUZ,)
Petitioner,)
v.) Case No. CIV-18-1011-R
FNU FARLEY, Warden,)
Respondent.)

ORDER

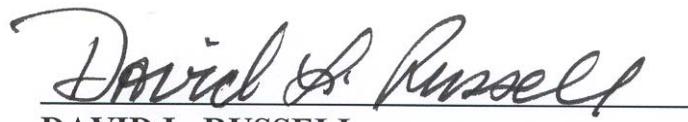
Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Gary M. Purcell (Doc. 16), entered on January 8, 2019. Petitioner, at the time he filed this action, was a federal prisoner at the Great Plains Correctional Facility in Hinton, Oklahoma. Doc. 1, at 1. Appearing *pro se*, Petitioner filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. *Id.* Petitioner argued that the Federal Bureau of Prisons (“BOP”) incorrectly calculated his sentence by failing to credit the time Petitioner spent in custody during his initial arrest and detention. *See id.* at 6–7; Doc. 16, at 1–2. Judge Purcell recommended that the petition be dismissed as moot, as “the BOP website indicates [Petitioner] was released from custody on December 10, 2018.” Doc. 16, at 2. Petitioner was given until January 28, 2019, to object to the R&R. *Id.* at 5.

No objection to the R&R has been filed nor has an extension of time in which to object been sought or granted. The docket indicates that the R&R was mailed to Petitioner’s last known address—at Great Plains Correctional Facility—and returned as undeliverable. *See* Doc. 17 (indicating that mail was returned as undeliverable because Petitioner was

“[n]o longer at [the] address”).¹ Petitioner is responsible for providing notice to this Court of any change of address, and “[p]apers sent by the court will be deemed delivered if sent to the last known address given to the court.” LCvR5.4(a); *see also Theede v. U.S. Dep’t of Labor*, 172 F.3d 1262, 1267–68 (10th Cir. 1999) (*pro se* plaintiff who failed to provide a change of address waived right to review by failing to timely object to the report and recommendation); *Marris v. Ulloa-Marquez*, CIV–14–471–D, 2014 WL 3670255, at *1 (W.D. Okla. July 22, 2014) (“It appears that Plaintiff’s lack of objection may be due to a lack of notice. . . . [A] copy of the [R&R] mailed to Plaintiff at his address of record was returned as undeliverable. Nonetheless, the Court finds that any failure to receive a copy of the [R&R] does not provide a basis for an exception to the . . . ‘firm waiver rule’ because Plaintiff was responsible for giving notice of any change of address.”). Therefore, Petitioner, by failing to object, has waived further review of the issues addressed in the R&R.

Accordingly, Judge Purcell’s Report and Recommendation is ADOPTED in full and the petition is DISMISSED.

IT IS SO ORDERED this 5th day of February, 2019.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE

¹ The R&R was mailed again to Great Plains Correctional Facility, but this second time it was addressed to the warden, who acknowledged service. *See* Doc. 18.